HIGH COURT OF UTTARANCHAL AT NAINITAL

First Appeal No. 451 of 2001
(Old No. 644 of 2000)

1. State of U.P. through the Collector Dehradun.
2. The Executive Engineer, Public Works Department,
3. (Construction Division), Dehradun .....Appellants.

Vs

Ashok Kumar, S/o Nav Kumar,
R/o Ajbpur Kalan,
Dehradun. ..... Respondent

Sri Nand Prasad Learned Standing Counsel for the appellants.
None appear for the respondent.

Dated:- 26-6-2006

Hon'ble B.S. Verma, J.

Heard Sri Nand Prasad learned Standing Counsel for the appellants. None appear for the respondent.

This appeal has been preferred against the judgment and decree dated 12-5-1999 passed by Sri Ahmad Shamim, IIIrd Additional District Judge, Dehradun in L.A. Case No. 110 of 1993.

Brief facts giving rise to the present appeal are that the notification under section 4(1) of the Land Acquisition Act (hereinafter referred to as the Act) were issued on 6-7-1989 and 12-12-1989 for parts of both the villages, while notifications under Section 6 of the Act were issued on 4-6-1990 and 12-6-1990 respectively. Land measuring 25.33 acres and 3.7 acres was acquisition by both the awards, though a bigger area was notified for acquisition. By award dated 31-3-1992 the Land Acquisition Officer on the basis of exemplar sale-deed paid compensation at the rate of Rs. 3,21,052.63 while by award dated 26-9-1992 he paid the compensation at the rate of Rs. 2,28,802.15 per acre,

alongwith the compensation for buildings, trees etc. with solatium, additional compensation and interest.

References under Section 18 of the Act were preferred by the property owners, which were duly referred to the District Judge. The claimants in their reference petitions stated that the rates given by the Spl. Land Acquisition Officer were inadequate and he has not selected the sale deed of highest value and rejected it for insufficient reasons. All the facilities were available near the acquired land, which was abadi land within one kilometer of municipal limits and claimed Rs. 10,00,000/- per acre for their land, which was market value prevalent at the relevant time. The Collector in his reply alleged that the land in question was agricultural land and 5-6 kilometers away from the city. The learned lower courts consolidate the claims/references and made L.A. Case No. 81 of 1993, Sri Randhir Singh Vs. Collector, Dehradun and L.A. No.362 of 1993, Shiv Nandan and another Vs. Collector, Dehradun and another as leading case in which all the evidence was recorded. Parties led oral and documentary evidence in support of their respective case. The Reference Courts on a consideration of the evidence and hearing arguments of both the parties, and also the case law laid down by the superior courts in detail, relying on the post notification sale deed paper No.12-C dated 4-12-1989 of L.A. No. 81/93 and sale deed paper No. 35C/1 dated 4-12-1989 on the file of L.A. No. 362/93 filed and proved on behalf of the claimants, found that the rate of Rs. 5,40,000/- per acre shall be just and proper. Aggrieved by this, the State has come up on appeal.

We have heard the learned counsel for the parties as well perused the impugned judgment and evidence on record. It has been fairly considered b y the learned Standing counsel for the State that all the sixty four appeals have already been decided by the Division Bench of this Court on 20-9-2004 and all the appeals have been dismissed on merit.

Since, the 58 references preferred by the claimants are partly allowed by the reference Court and the claimants were awarded compensation at the rate of Rs. 5,40,000/- per acre. All the references have been decided by the common Judgment by the learned Court dated 12-5-1999. the Controversy whether the respondent/claimant was entitled to compensation @ Rs. 5,40,000/- per acre has been decided by the Division Bench of this Court.

Accordingly the present appeal is dismissed on merit in view of the Judgment of Division Bench of this Court passed in F.A. No. 243 of 2001 and 63 others cases dated 20-9-2004. No order as to costs.

(**B.S. Verma, J.)**

Dated:- 26-6-2006
M.K.